



# House of Representatives

General Assembly

**File No. 467**

January Session, 2005

Substitute House Bill No. 6715

*House of Representatives, April 20, 2005*

The Committee on Public Health reported through REP. SAYERS of the 60th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING STRIKE CONTINGENCY PLANS FOR HEALTH CARE INSTITUTIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-497 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) [Any] Each institution shall, upon receipt of a notice of intention  
4 to strike by a labor organization representing the employees of such  
5 institution, in accordance with the provisions of the National Labor  
6 Relations Act, 29 USC 158, [immediately] file a strike contingency plan  
7 with the commissioner not later than five days before the date  
8 indicated for the strike. [The commissioner shall adopt regulations, in  
9 accordance with the provisions of chapter 54, to establish requirements  
10 for such plan.]

11 (b) The commissioner may issue a summary order to any nursing  
12 home facility, as defined in section 19a-521, that fails to file a strike

13 contingency plan that complies with the provisions of this section and  
14 the regulations adopted by the commissioner pursuant to this section  
15 within the specified time period. Such order shall require the nursing  
16 home facility to immediately file a strike contingency plan that  
17 complies with the provisions of this section and the regulations  
18 adopted by the commissioner pursuant to this section.

19 (c) Any nursing home facility that is in noncompliance with this  
20 section shall be subject to a civil penalty of not more than ten thousand  
21 dollars for each day of noncompliance.

22 (d) (1) If the commissioner determines that a nursing home facility is  
23 in noncompliance with this section or the regulations adopted  
24 pursuant to this section, for which a civil penalty is authorized by  
25 subsection (c) of this section, the commissioner may send to an  
26 authorized officer or agent of the nursing home facility, by certified  
27 mail, return receipt requested, or personally serve upon such officer or  
28 agent, a notice that includes: (1) A reference to this section or the  
29 section or sections of the regulations involved; (2) a short and plain  
30 statement of the matters asserted or charged; (3) a statement of the  
31 maximum civil penalty that may be imposed for such noncompliance;  
32 and (4) a statement of the party's right to request a hearing to contest  
33 the imposition of the civil penalty.

34 (2) A nursing home facility may make written application for a  
35 hearing to contest the imposition of a civil penalty pursuant to this  
36 section not later than twenty days after the date such notice is mailed  
37 or served. All hearings under this section shall be conducted in  
38 accordance with the provisions of chapter 54. If a nursing home facility  
39 fails to request a hearing or fails to appear at the hearing or if, after the  
40 hearing, the commissioner finds that the nursing home facility is in  
41 noncompliance, the commissioner may, in the commissioner's  
42 discretion, order that a civil penalty be imposed that is not greater than  
43 the penalty stated in the notice. The commissioner shall send a copy of  
44 any order issued pursuant to this subsection by certified mail, return  
45 receipt requested, to the nursing home facility named in such order.

46       (e) The commissioner shall adopt regulations, in accordance with  
47       the provisions of chapter 54: (1) Establishing requirements for a strike  
48       contingency plan, which shall include, but not be limited to, a  
49       requirement that the plan contain documentation that the institution  
50       has arranged for adequate staffing and security, food, pharmaceuticals  
51       and other essential supplies necessary to meet the needs of the patient  
52       population served by the institution in the event of a strike; and (2) for  
53       purposes of the imposition of a civil penalty pursuant to subsections  
54       (c) and (d) of this section.

55       (f) Such plan shall be deemed a statement of strategy or negotiation  
56       with respect to collective bargaining for the purpose of subdivision (9)  
57       of subsection (b) of section 1-210.

This act shall take effect as follows and shall amend the following sections:

|           |                 |         |
|-----------|-----------------|---------|
| Section 1 | October 1, 2005 | 19a-497 |
|-----------|-----------------|---------|

**PH**           *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

| Agency Affected      | Fund-Effect       | FY 06 \$  | FY 07 \$  |
|----------------------|-------------------|-----------|-----------|
| Public Health, Dept. | GF - Revenue Gain | Potential | Potential |

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

A revenue gain to the state would ensue to the extent that civil penalties of up to \$10,000 per day are assessed on nursing homes failing to file strike contingency plans in accordance with the bill's provisions or state regulation.

It is expected that the Department of Public Health will be able to adopt the required regulations, serve notice upon noncompliant facilities and participate in any resulting hearings within its anticipated budgetary resources.

**OLR Bill Analysis**

sHB 6715

**AN ACT CONCERNING STRIKE CONTINGENCY PLANS FOR HEALTH CARE INSTITUTIONS****SUMMARY:**

By law, a health care institution notified by a labor organization representing its employees of its intention to strike must file a strike contingency plan with the health commissioner. This bill requires the plan to be filed no later than five days before the scheduled strike, rather than immediately after receiving a strike notice.

The bill allows the Department of Public Health (DPH) commissioner to issue a summary order to any nursing home failing to file a contingency plan that complies with the bill within the specified time period. The order must require the nursing home to immediately file a plan complying with the bill and regulations adopted by DPH. A noncomplying nursing home is subject to a civil penalty of up to \$10,000 for each day of noncompliance.

The bill requires the DPH commissioner to adopt regulations (1) establishing requirements for a strike contingency plan, which must include a requirement that the plan contain documentation that the institution has arranged for adequate staffing and security, food pharmaceuticals, and other essential supplies necessary to meet patients' needs if there is a strike and (2) for imposing the civil penalty.

EFFECTIVE DATE: October 1, 2005

**NONCOMPLIANCE BY NURSING HOME AND HEARING REQUEST**

Under the bill, if the DPH commissioner determines that a nursing home is not in compliance with the contingency plan provisions and regulations, he can send a notice, by certified mail, return receipt requested, to an authorized officer or agent of the home. The notice must include (1) a reference to the section of the bill or regulation involved, (2) a short and plain statement of the matters asserted or charged, (3) a statement of the maximum civil penalty that can be

imposed for noncompliance, and (4) a statement that the party has a right to request a hearing to contest the civil penalty.

The bill allows a nursing home to contest the civil penalty within 20 days after the notice is mailed or served. All hearings must be conducted according to the Uniform Administrative Procedure Act. If the nursing home fails to request a hearing or does not appear at one, or is after the hearing DPH finds that the facility is in noncompliance, DPH can, in its discretion order a civil penalty imposed that is not greater than the penalty stated in the notice. DPH must send a copy of the order by certified mail, return receipt requested, to the facility.

## **BACKGROUND**

### ***Health Care Institution***

“Health care institution” includes hospitals, residential care homes, health care facilities for the handicapped, nursing homes, rest homes, home health care agencies, homemaker-home health aide agencies, mental health facilities, substance abuse treatment facilities, outpatient surgical facilities, infirmaries operated by educational institutions, facilities providing services for the diagnosis and treatment of human health conditions, and residential facilities for the mentally retarded.

## **COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 26      Nay 0